City of Lafayette
Meeting of the Lafayette City Council and Crime Prevention Commission

MINUTES

Lafayette Community Center – Manzanita Room
500 St. Mary's Road, Lafayette, California

June 22, 2009
6:30 p.m.

1. CALL TO ORDER

Mayor Tatzin called the Special City Council meeting to order at 6:35 p.m.

2. ROLL CALL

Present: Mayor Tatzin, Vice Mayor Andersson, Councilmembers Anderson and Federighi

Absent: Councilmember Anduri

Present: Crime Prevention: Chair Traci Reilly, Commissioners Larry Bellusa, Rita Charles, Kim Tejada, Ed Valencia

Absent: Gabriel Froymovich and Tom Titmus

Staff: Steven Falk, City Manager; Tracy Robinson, Administrative Services Director; Ann Merideth, Community Development Director; Mala Subramanian, City Attorney; Cathy Surges- Moscato, Community Services Officer; Joanne Robbins, City Clerk

3. ADOPTION OF AGENDA

ACTION: It was M/S/C (Federighi/Anderson) to adopt the agenda. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

4. PUBLIC COMMENT

5. PRESENTATION

A. Crime Prevention Commission Goals & Accomplishments
Recommendation: Receive and File.

Chair Traci Reilly introduced members present, noted that Rita Charles would discuss Neighborhood Watch, Larry Bellusa would discuss Child I.D., Edward Valencia about Child and Elder Abuse, Kim Tejada will discuss Community Outreach, and she will discuss, on behalf of Gabriel Froymovich about Multi-Media and Website.

Ms. Reilly reported that in 2008, their main objective was to have the ordinance passed and this was accomplished on January 12, 2009. Their next goal was to conduct a public relations campaign and education, and to date, the ordinance has been published in the Vistas, they created a brochure which was completed in March 2009, and their Commission purchased "no

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soliciting" signs which are available. They included a blurb in schools' newsletters about the solicitor ordinance and are awaiting approval of mailing out hard copies to parents. They emailed an announcement to school principals, PTA's which is completed and they will continue to place articles in the newspapers and continue to promote in upcoming community events.

Regarding 2009 statistics, Ms. Reilly said they have had 39 calls for service, 13 contacts have been made by the Lafayette Police Department 9 of which occurred after the ordinance was put into effect, 2 contacts were warnings, 4 of the 9 were street vendors which are not covered, 2 citations were issued, and 1 contact resulted in an arrest for a warrant, with 17% of calls being related to the "meat man". She said there were some peddlers in Orinda who will not come to Lafayette because they do not want to go through the permit process and she believes the ordinance is doing what it is intending to do.

Councilmember Federighi questioned the number of permits issued, and Officer Cathy Surges-Moscato reported no permits have been issued; 3-4 people have called about instructions, but none have been returned.

Neighborhood Watch Meetings:

Commissioner Rita Charles reported on several successful neighborhood watch meetings, with large attendance held in the homes of residents. She said significant information has been distributed and designated by neighborhood. One meeting coincided with the release of the non-solicitors ordinance and they were primarily targeting homeowners with children home during the day fairly unsupervised, noting that one neighborhood borders a park and Pleasant Hill with a lot of juvenile activities at night.

Ms. Charles said the Happy Valley meeting followed a series of burglaries in the upper area and homeowners were quite concerned about items being taken. They encouraged neighborhood watch program residents to establish captains and an electronic database with information about who lives in the house, number of children, whether they had gardeners, whether their cars were in driveways, whether or not they would be on vacation, and the availability of telephone trees or email notification by neighbors. She said they would also have a booth at the Lafayette Art and Wine and Safety Fair on August 1st where more information will be presented.

Ms. Charles noted the existence of many open houses and homes for sale in Lafayette, which in particular will be more targeted than residential burglary sites because homeowners are absent.

Councilmember Anderson questioned whether or not captains of neighborhood watches are recognized, and Ms. Charles said unfortunately no; captains typically used to handle the phone tree organization and neighborhood information. She did this for 15 years only because she was the first house on the street. She was a member of the Crime Prevention Commission and her home was a safe house for children coming home from school if there were any problems. There are so many neighborhoods in the City and she did not believe any participated in a recognition program. She also added that neighborhood watch signs that can be purchased are the result of those with good programs.

Councilmember Federighi said she remembers a joint meeting being held with Crime Prevention and Emergency Services where a concern had been voiced at that time to get the neighborhood watch programs organized. She questioned how successful they have been. Ms. Charles said they were contacted by a realtor who is a homeowner in Happy Valley neighborhood watch. She said she remembers that the only successful programs were those in people's homes. She had a

large meeting at Happy Valley School during a period of many break-in's which was well-attended. Often, people will not go into a different community to attend a neighborhood watch meeting. Several homeowner associations have successful neighborhood watch groups and the number of programs continues to grow.

Vice Mayor Andersson questioned the parameters for establishment of a neighborhood watch program and meetings. Ms. Charles said there are no rules or restrictions; typically someone presents an interest in a meeting, neighbors will be invited from as many streets as they want according to what makes sense geographically, and the Commission is happy to attend, conduct presentations on home security, about having children open doors to strangers, trespassers, late night parties, etc. Vice Mayor Andersson confirmed that those interested in starting a neighborhood watch should contact the police department or any Crime Prevention Commission member.

Child I.D.

Commissioner Larry Bellusa discussed Child I.D., a program of the City and Crime Prevention Commission for 15 years, stating it is a good way to interact with parents of communities that attend certain functions in the City such as the Art and Wine Festival and the Oakwood Health Club. They distributed 400 DNA kits at the Art and Wine Festival and create awareness for parents. The DOJ has notified them that each year there are over 800,000 children missing, 400,000 of which are missing because they run away from home, 300,000 are abducted by a family member, and more than 58,000 children are abducted by those they do not know. He discussed the process of providing informational materials, photographing the child and DNA kits which are kept by parents; he hopes to continue to provide the service and noted that the costs are not that great.

Councilmember Anderson believed Child I.D. is very popular and he questioned if this was also used as an opportunity to talk about other programs like neighborhood watch and elder abuse. Mr. Bellusa said they do have pamphlets about both programs and can engage with residents as time permits. However, depending upon the number of people in line, they focus the content on Child I.D. only.

Child and Elder Abuse:

Commissioner Edward Valencia said the idea of becoming more tied in with children's and adults protective service is something which has been discussed and they are not completely sure about how to engage. He read a statement into the record where a case was cited at a previous Crime Prevention Commission meeting which involved a half-starved, bruised, near naked adolescent who had run away to a health club seeking help. He was physically abused and locked in a closet with no bedding or clothes for years. She questioned how neighborhood children could play with his siblings, stay overnight, share observations with parents, and yet parents did nothing to alert protective services. She questioned whether the Commission could become more proactive in promoting intervention strategies.

There have recently been many sensational cases of abuse in the Bay Area. Unlike other crimes, child and elder abuse are generally repetitive and reflect a pattern, rather than isolated acts. Abuse comes to attention only when something has gone terribly wrong. Often abusive behavior has been witnessed and people ask whether they could or should have done more. Victims are more vulnerable and have less access to services. He said Commissioner Tejada has contacted many agencies providing protective services to children and adults, and safe haven and respite

options are available when instances of abuse arise. As they learn more about resources, they will better specifically define their role. Initially, their goal will be to pursue public education and outreach.

Mayor Tatzin said having been involved with some non-profits dealing with abuse he believed it is very important work.

Community Outreach

Commissioner Kim Tejada said they held a joint meeting last June between the Commission and Earthquake Preparedness group, learned a lot about how to reach out to the community, promote the idea of coordinating neighborhood watch and they are still working on it and looking for ways to get people more interested. This year their efforts will be geared more this year at the August 1st Safety Fair on the Stanley School campus. They are in the planning stages with police and school officials and will provide information on abuse, neighborhood watch, safety, and other activities for families to participate in such as the canine service. They also continue to provide outreach in newspaper articles, visited Oakwood Athletic Club from a request from the Board of Realtors who put on an event every year and they explored a business watch which is similar to the neighborhood watch. She suggested doing scenario training exercises for businesses but has not yet received contact from any businesses. Another communication effort they are exploring is in the website arena, which will be discussed by the Chair.

Councilmember Federighi questioned if the Commission could make a presentation to the Chamber of Commerce at a board meeting. Ms. Tejada said this was already done by Sergeant Gerhard and they will continue to make their availability known.

Multi-Media and Website

Chair Traci Reilly read a statement, in part, from Gabriel Froymovich in his absence. Communication is primarily by word of mouth; they see a lot of potential in a website which would focus primarily on the solicitor's ordinance but also used to pass on tips about how to protect your home and businesses. They would make it easy to navigate and read, make it web search-friendly, informative but concise, and they hope to pass this onto other residents, link the site with the Chamber of Commerce if allowed and they hope to build on different communications, links and also do some blogs. Communication is important in helping to promote the work and activities of the Crime Prevention Commission.

Ms. Reilly said Officer Surges-Moscato receives a lot of phone calls about break-in's and burglaries, and the Commission wants to be more proactive before crime occurs and will continue to work on communication throughout the rest of the year.

Councilmember Anderson questioned whether or not the website was meant to be independent of the City's website. Ms. Reilly said ideally it would be independent; they would have their own content, they understand it would have to be approved by the City, but they would like it linked to the Love Lafayette website and other community websites dealing with crime. She acknowledged there is a lot of work to be done in communicating to citizens, noting that the newspaper is not always reliable.

Mayor Tatzin commended the Commission's efforts, agreed that communication is something everyone wrestles with and the City has created a Committee to look at both pro's and con's of becoming a charter city as well as communications. When the Committee moves into the

communications work, he would want to invite the Crime Prevention Commissioner to discuss their needs and experiences.

Councilmember Anderson believed the Commission's work was very good; Commissioners have acknowledged that they will need to think outside the box to get people engaged and he believed that drawing to the strongest component which he felt was Child I.D., would be an available mode to reach out to as many people as possible, and he thanked Commissioners for their hard work.

Mayor Tatzin commended the Commission's building of programs and efforts over the years.

6. ADJOURNMENT

The City Council adjourned to the City Council Regular meeting at 7:00 p.m.

APPROVED:

_____
Don Tatzin, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk

City of Lafayette
Lafayette City Council
Redevelopment Agency Meeting

MINUTES

Lafayette Community Center – Manzanita Room
500 St. Mary's Road, Lafayette, California

June 22, 2009
7:00 p.m.

1. CALL TO ORDER

Mayor Tatzin called the Regular City Council meeting to order at 7:05 p.m.

2. ROLL CALL

Present: Mayor Tatzin, Vice Mayor Andersson, Councilmembers Anderson and Federighi

Absent: Councilmember Anduri

Staff: Steven Falk, City Manager; Tracy Robinson, Administrative Services Director; Ann Merideth, Community Development Director; Niroop K. Srivatsa, Planning & Building Services Manager; Tony Coe, Engineering Services Manager; Michael P. Cass, Assistant Planner; Mala Subramanian, City Attorney; Joanne Robbins, City Clerk

3. PLEDGE OF ALLEGIANCE – led by Mayor Tatzin

4. ADOPTION OF AGENDA

Mayor Tatzin requested moving Items 11.B and 11.C to follow Item 6.A.

ACTION: It was M/S/C (Andersson/Anderson) to adopt the agenda, as amended. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

5. PUBLIC COMMENTS

GEORGE BURTT, Acalanes and Lafayette Homeowners Councils, said the Council established an Ad Hoc Committee which they object to. He said they want to stay with the process and cannot due to being excluded from the meetings. Mr. Hudson forwarded information to the City for review as to whether or not the process is legitimate under the Brown Act and he asked the Council to reconsider the matter and hold noticed meetings.

Mayor Tatzin questioned whether the Ad Hoc committee met and details about how the committee was formed. Ms. Merideth said a committee has not met and there are no plans to hold a meeting at this point. She said the City Attorney could further discuss what constitutes a subcommittee under the Brown Act.

City Attorney Mala Subramanian said it is her understanding that the Council authorized a subcommittee at the June 1st meeting. She reviewed the minutes from the meeting and did not

specify in any detail actual members of the subcommittee. However, if the subcommittee consisted of less than a quorum of a Council, it would not be subject to the Brown Act and would not require public meetings.

Mayor Tatzin said if the subcommittee did meet and did not have a quorum of the Council but had representatives from various commissioners, he questioned what would the Brown Act requirement be. Ms. Subramanian said it would be subject to the Brown Act; the exception applies if it is less than a quorum of one legislative body. Since the Council created the subcommittee, it would need to be less than a quorum of the Council, with representatives of no other commissions or committees.

ELIOT HUDSON said in light of the City Attorney's statements, he hoped meetings are open not only because it is required, but the Council recognizes the issues to be discussed have been the most contentious and important in the process of the Downtown Strategic Plan. He looks forward to a public forum and the ability to comment.

6. PRESENTATION

A. Update from State Senator Mark DeSaulnier

Recommendation: Receive and file.

State Senator Mark DeSaulnier said he used to represent the 11th District in the Assembly which Senator Torlakson represents. He is planning to visit each City Council to conduct a short presentation and a question-and-answer session. He distributed a packet of all bills he has authored or co-authored for the session and said he would discuss the budget.

When they began the budget year last June there was a $15 billion problem going into 2008/09, it was an arduous effort to get a conclusion on the $15 billion which was almost all cuts in November. Shortly thereafter, the Legislative Analyst's Office which is appointed and hired by the legislature by consensus came back and said it would be worse. The Governor returned and confirmed there was an additional $20 billion problem in this fiscal year and in addition, they project at least a $22 billion problem in 2009/10, and it would be more prudent to solve the 18-month problem as soon as possible. This negotiation led to the longest legislative sessions in both Assembly and Senate houses in the history of the State of California.

Senator DeSaulnier said they were able to get 6 Republicans to vote. California is the only state which requires a super majority of both houses to pass a budget and California allows the Governor to blue-pencil single individual items. They did a combination of revenue increases and cuts of about $12 billion, with the rest being borrowing and moving around accounting. The 6 Republicans who voted on it are in the process of being recalled by members of their party for voting for it, and they put 6 items on the ballot which were required as part of negotiations.

Largely because of the economy they were told that revenues are off an additional 30% and they must cut $18-$25 billion, with the Governor's requirement to create a rainy day fund. They do not believe it is a good time to build a large fund when the economy is so slow. Therefore, they are now scheduled to hold a session on Tuesday to discuss what Democrats have proposed in response to the Governor's proposal. The Governor has suggested suspending Prop 1A which would affect Lafayette in the amount of $2 billion, "borrowing" street and roadway money, and the Governor was also going to eliminate CalWorks, PEL Grants, and Healthy Families in addition to a $6 billion cut statewide to K-12. Democrats came back with a proposal saying they would not do the rainy day fund and would drop from all of the items but not abandon them.

He said they have the following proposals for revenue increases; 1) tobacco tax which would raise about $2 billion. He said California is 39th in the country on how it charges on tobacco tax; 2) raise an oil severance tax; the other 22 states that have oil production under their surface charge a severance tax for extraction of it and California does not do it, but they feel this is a good option; and 3) closing parks; they suggest charging a $15 vehicle license fee that would go in perpetuity to fund operations of all state parks. Californians licensed drivers would have free admission to any park in the State. He said all fees would need 6 Republicans in the Assembly and 2 Republicans in the Senate to join Democrats to pass revenues.

Regarding local governments, their proposal is to keep Prop 1A whole which would be important, but they would take money from gas tax that goes to local streets and roads. They are hoping for money available for Prop 1B in the stimulus package and authorization from the federal government this year to make local government whole.

There is $50 billion worth in tax credits to corporations in California right now. He and Senator Lois Wolk from Solano County have asked the legislative analyst to score them and identify which ones are bringing in revenue and helping business and identify those not working, which would be about $8 billion. Half of this would go to K-12 under the conditions of Proposition 98. The other half would be spread out through Health and Social Services and local government.

Lastly, the good news is that because of these crises, there are various people who want to change the structure of Government--California Forward, who wants to do a Constitutional Revision Commission, and he has a bill calling for a Constitutional Convention to change the systemic problems in the state. They held a meeting with the Bay Area Council and about 300 individuals who want to move forward with this in changing the tax system, initiative system and how services are provided changes. He will introduce his bill within the next two weeks, but there is a fairly strong opposition in Sacramento for such global change. If the bill does not move through, the Bay Area Council is prepared to go to voters to do an initiative process.

Councilmember Anderson thanked Senator DeSaulnier for the update and questioned the process regarding the Constitutional Convention which he felt could take many years. Senator DeSaulnier noted there have been two Constitutional Conventions in the history of the State; the original one and one in 1879. The process is that a super majority must be obtained from both houses to call a Convention. It would be put to a vote of the people, which would be in November of next year if he were successful. After the voters approve it, it goes back to the legislature who can decide how the delegates are formed. To a degree, the parameters can then be decided upon. In California, legislature and administration must be separate from it, and the Bay Area Council would like to do a jury pool much like Prop 11, but this would be determined after it is voted upon. Delegates are appointed, elected or chosen by jury pool. If he were actually successful, a convention might be held a year from now and they could be given up to two years to deliberate. The language in his bill is simple; there is an argument about how much the legislature can tell the convention what to do. Those against it have vested interests in Sacramento who do not want to see it happen and are concerned with a runaway convention, but he wants to focus on the fiscal crisis. His language states, "The Constitution shall analyze and come back with recommendations for voters to approve or reject the efficient and effective delivery of public services in California."

The Bay Area Council's is more complicated, but it is basically the fiscal issues. Senator DeSaulnier said he will carry their two bills in the legislature as well, and if the legislature does not vote it out, the Bay Area Council will go to the voters, get signatures, put it on the ballot, and they will amend the Constitution to say the voters can call a Constitutional Convention by a simple

majority, which will be legally challenged. In the original Constitution, the drafters were specific—they say the legislature is the only vehicle to call a convention. However, he personally felt there was so much momentum and the general population (70%-80%) is in favor of it. He noted that 14 states require as part of their Constitution that every 9-14 years, voters be asked the question, should there be a Constitutional Convention. Personally he felt Californians are paranoid about the downsides and do not consider the upsides.

Councilmember Anderson said the proposal would be about two years out for any substantial change, and he confirmed California must deal with its current crisis. He said he appreciates the Senator's willingness to protect local funds, and when the City hears from residents who have potholes and someone says gas tax funds are going to be taken, it is hard to answer to residents about how this can be possible or acceptable. He said he has yet to hear any proposal that solves the entire budget problem, as nothing seems to have the whole problem addressed in one package and wondered if people are paying attention to this in the Senate.

Senator DeSaulnier said he would give local government property tax; commercial development would pay a portion of residential, and he would also change the inequity built in from Proposition 13 and do equalization which would make it more predictable. The State would live on income tax and it would change the sales tax to be broader. Lastly, California does not do performance based budgeting or management at all at the State level, which he would do. However, in order to do this, about 80% of the California Constitution would need to change. He felt if it were a threat, quite possibly the business community and labor would do something, so a series of initiatives are proposed for next year, such as doing away with the requirement for a super majority, how we gather signatures, how to change the threshold of signature gatherers and how to change the initiative system.

Councilmember Federighi referred to the Senator wanting to keep local government whole and the argument about invading Proposition 1A. Yet, on the other hand, Prop 1A had the chance of local governments getting their money back, and now gas tax may also be potentially gone. Senator DeSaulnier said California has a bigger problem than other states due to its structure and size. He agrees with keeping cities whole and felt funding must come from somewhere. K-12 money is dire, they are going to cut from the Department of Corrections and let 30,000 inmates out, and Division Managers such as Caltrans who gets paid $130,000 a year will leave to go to Orange County and will get paid $280,000 there, and there are no good choices. He asked people to contact him with any and all suggestions.

Mayor Tatzin said cities are expected to balance their budgets with revenues available to them as opposed to balancing its budgets with revenues we can take from other entities. He first suggested looking at revenues that are truly the State's and not ask cities to sacrifice their fundamental services. He also questioned the status of redevelopment funding in the State budget.

Senator DeSaulnier said he will most likely vote against it, as it is really like stimulus money and he would rather not take the money but accelerate the process of getting some projects in the ground more quickly because they would also provide jobs.

Mayor Tatzin said the City is in the process of getting a private, unsecured loan to finish the City's Library project. The same organization has given them a substantial loan to begin with and they are prepared to give the City another loan until the latest news about the proposal to take Redevelopment money without paying it back. Now they are worried about the City's ability to pay because of the State's action. He assumed this action would ripple through Wall Street, and as

Redevelopment Agencies trying to go out and raise money through borrowing means, all it is doing is raising the cost of redevelopment funding and we get less done and pay more interest. He questioned why the Senator's colleagues think this is a good idea.

Senator DeSaulnier said they do not see the money as separate and acknowledged the stance of local government, but noted everybody is suffering and choices are not easy. Mayor Tatzin used the example of stealing from your neighbor if he was broke, and Senator DeSaulnier asked him to look at it as a family, did not disagree and wants to protect local government, but he would like to get more money for K-12 especially for the poorer school districts, which are painful cuts.

Mayor Tatzin discussed their "scrimp to pave" program, and the wide range of services other cities provide that Lafayette does not because of its deficient roads. This cuts the program in terms of any improvements the City's expenditures will make. When they must cancel contracts later this year because the City cannot fix roads, he questioned who residents should call.

Vice Mayor Andersson questioned what the analysts and attorneys have opined about the legality of taking the gas tax. Senator DeSaulnier said their opinion is that it is legal. He said the State has the worst credit rating of any state in the country and all three rating agencies have made a point of saying one of the reasons for it is our inability to pass a budget with a simple majority. The irony is that the simple majority was put in the Constitution when Republicans had control of both houses in the 50's, and now it has come that Democrats do not like it. Also term limits have created a perfect storm along with the economy.

Mayor Tatzin agreed that what California Forward is trying to do and what Senator DeSaulnier is trying to do make sense long-term, but the City will need to identify how to rebalance, spend efficiently, and he is concerned about the City's credit rating which was moved from AA to AAA last year.

Senator DeSaulnier discussed a bill in Congress that basically allows the federal government to back up states like California and local government. They would have saved half a billion dollars a year because their credit rating would be lowered, and similarly, this would help with the City's credit rating as well because federal government would secure the loans, saving money.

Mayor Tatzin questioned the status of AB 155 regarding bankruptcy. Senator DeSaulnier said the bill is coming to local government first and then onto the house. He has discussed the bill with the author, Mr. Mendoza. The point of the bill is that it requires a City to go through what they would have to go through in bankruptcy court. City representatives and accountants would go before a board to review the finances of the City to determine if a court will qualify it to go into bankruptcy. He said the labor community sees it as having cities going through the process early rather than what has happened in Vallejo. It creates a process prior to going to bankruptcy court of being honest, and his view in reading it is that you would have to go through that anyway. The labor community sees it as protecting the workforce as they negotiate contracts in dire financial situations.

Mayor Tatzin questioned how a normal citizen benefits from this provision if a local government is delayed from filing from bankruptcy and cannot redirect funds to maximizing service. Senator DeSaulnier said you may be delayed from putting it in but the timeline would be the same. Due diligence would need to be done before going to court. The bill will go to local government, appropriations, and the floor, and he is open to possibly changing his opinion and co-authorship if analysis showed it would cost local government more money.

Councilmember Federighi said it was her impression that the legislative oversight included prohibition against re-negotiating contracts for cities and this is not true; it is just a delayed process. Senator DeSaulnier said it is delayed as to when you would file for bankruptcy, but not delayed in the timeline when you could actually say you were bankrupt, and due diligence is done on the front end. He said the labor community feels this is a more equitable due process. He confirmed the board is an accountancy board separate from labor that looks at accounting regulations and is dominated by CPA's.

City Manager Falk said if the State takes the gas tax away, the City would suggest that you author a bill that would allow a general law city to place a property transfer tax before its own voters. Lafayette has wrestled with this. Piedmont is a charter city, it can raise its property transfer tax, general law cities cannot, and Lafayette does not have the ability to increase revenue in this arena. Senator DeSaulnier said Mr. Falk to forward language to him and he could try and get it into a budget bill.

Mayor Tatzin confirmed there was no public comment and the Council thanked Senator DeSaulnier for his update.

Brought Forward from Council/Commission Reports:

11. B. Mayor Don Tatzin
Resolution 2009-38 Authorizing the City Attorney to Cooperate with the League of California Cities, Other Cities and Counties in Litigation Challenging the Constitutionality of Any Seizures by State Government of the City's Street Maintenance Funds
Recommendation: Adopt Resolution.

Vice Mayor Andersson questioned if the resolution committed the City Attorney to spend time, join a lawsuit, and questioned what "cooperate" included. Mayor Tatzin felt that if there were a lawsuit, the City would be a party to it. He did not believe the City Attorney would be spending a lot of time on but more so, representatives of the League of California Cities.

ACTION: It was M/S/C (Anderson/Federighi) to adopt Resolution 2009-38 authorizing the City Attorney to cooperate with the League of California Cities, Other Cities and Counties in Litigation challenging the constitutionality of any seizures by State Government of the City's Street Maintenance Funds. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

Convene Redevelopment Agency

ACTION: It was M/S/C (Anderson/Andersson) to convene the Redevelopment Agency meeting. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

11. C. A Joint Resolution of the City and Redevelopment Agency of Lafayette Authorizing the City Attorney/Redevelopment Agency General Counsel to Cooperate with the California Redevelopment Association, Other Cities and Counties in Litigation Challenging the Constitutionality of any Seizure by State Government of Redevelopment Funds
Recommendation: Discuss and direct staff.

Chair Tatzin said on the basis of a conference call held earlier with the League, the California Redevelopment Association was victorious in an earlier case this year, and the legislature has drafted somewhat different language they think they may get around it.

ACTION: It was M/S/C (Anderson/Federighi) to adopt a joint Resolution of the City and Redevelopment Agency of Lafayette authorizing the City Attorney/Redevelopment Agency General Counsel to cooperate with the California Redevelopment Association, Other Cities and Counties in Litigation challenging the Constitutionality of any seizure by State Government of Redevelopment Funds. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

Adjourn Redevelopment Agency

ACTION: It was M/S/C (Anderson/Federighi) to adjourn the Redevelopment Agency meeting. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

7. OLD BUSINESS

A. Michael Cass, Assistant Planner
Lafayette Chamber of Commerce (applicant), CityWide Application: Request to Amend the 2009 Lafayette Stimulus Package Relating to Existing Small Businesses, Hours of Operation, and Parking Requirements
Recommendation: Discuss and direct staff.

Assistant Planner Michael Cass gave the staff report, stating that at the April 27th meeting, the Council adopted Resolution 2009-26 which amended the Lafayette Stimulus Package specifically relating to a waiver of parking requirements for existing small businesses that are less than 1,500 square feet that were legally established that have shared parking agreements. Within the resolution, it was stipulated there would be a two-month trial period which is scheduled to terminate on June 30th. Staff is bringing back the matter to determine whether or not the Council deems it appropriate to extend the waiver of the parking requirements for the life of the 2009 Lafayette Stimulus Package.

Vice Mayor Andersson confirmed that the life of the stimulus package was through the end of the year. Mr. Cass responded affirmatively.

Councilmember Federighi questioned the response to the waiver of parking regulations to date, particularly to affected businesses. Mr. Cass said staff has received no written correspondence from any businesses; however, Flippers Burgers this afternoon contacted the City and they are present to speak against the request.

Vice Mayor Andersson noted there were 8 speaker requests, and suggested the applicant comment first.

Public Comments:

JAY LIFSON, Chamber of Commerce, said they have not received any complaints to date from businesses regarding changes in the parking status. They requested the amendment to the Lafayette Stimulus Package with the hope of stimulating the economy. He felt this was the result of the amendment and asked the Council to continue this through the remainder of the calendar year.

JIM HENRY, Flipper's Burgers, said he was traveling in June but can testify that over the last six months, he has parked out in the street because it has been busy and there are only one or two spaces left which he would save for customers who shop at Flipper's Burgers, the cleaners and other tenants. He said there is outside dining which is more than 1,500 square feet and he was not sure it would apply.

Councilmember Federighi questioned whether the business activity has been fairly consistent over the last six months. Mr. Henry said there have been at least 10-12 times that he would drive by around noon, it would be very busy and he would make a left turn and park on the street.

Councilmember Federighi said she thought the restaurant was not allowed to be open at lunchtime until after April 27th. Mr. Henry said even without the restaurant being opened, they are busy during the lunch hour. She confirmed that Mr. Henry could not pinpoint any specific dates.

MICHAEL HELLER said it is nice to see a high quality restaurant open in Lafayette and he asked to give them an opportunity to continue at least to the end of the Lafayette Stimulus Package, as they need business, the City needs business and residents appreciate their restaurant.

PAMELA SOUSA, Pleasant Hill, said she frequents the Lafayette downtown, but voiced concern with what is occurring with Flipper's Burgers and the area. In the last two months, multiple people drop off children for the day care at the parking lot, lunch time is pick up time, a new restaurant is opening now and customers are not in and out of there but spend 1-2 hours eating which compounds the parking problem.

She confirmed with Councilmember Anderson and Mayor Tatzin that the day care in question is the Old Firehouse School and that parking is scarce and she patrons the area frequently.

TONY SOUSA echoed Ms. Sousa's comments, said he has been going to Flipper's for years and in the last couple of months it has been busy and difficult to find parking. He said he actually has driven by and went elsewhere because there was no parking which may be what other people are doing. He said Flipper's business is primarily around 9:00 a.m. or 10:00 a.m. to 2:00-3:00 p.m., whereas in the past, the prior restaurant was only open in the evenings, which worked out better.

BOB BROWN, co-owner of Flipper's Burgers, said a major reason he purchased the restaurant in April 2005 was because he was assured by the landlord that he would not have a competing parking issue because the City ordinances regulate that there be no other retail food establishment competing with him at lunch time. The Chevalier's are starting to do fairly well with their business, there are no more than 25 parking spaces and by the time employees and others park, there is not much parking left for patrons. He has nothing against the restaurant and wishes them success, but not at his expense, and he asked the Council to reconsider approving the Chamber of Commerce's request.

Mayor Tatzin questioned and confirmed that Flipper's Burgers has a total of 4 employees working during their peak time and they park in the parking lot. Mr. Brown said often there is very little parking on the street, and if Chevalier Restaurant opens at lunch, there will be another 4 spaces removed due to their employees. Mayor Tatzin noted that the Chamber has suggested all employees park elsewhere so patrons can park close to the establishments, and Mr. Brown agreed.

MADSOOD AHMED said he has run Flipper's for over 4 years, said he has noticed that Chevalier Restaurant is crowded during the lunch hour. He said Flipper's customers can hardly get parking,

and they often drive by without stopping. Flipper's Burgers is losing business due to lack of parking. The financial situation is compounded by increased rent.

ZIA DAIRKEE said he used to patron Mr. Brown's restaurant, but he always has had difficulties in parking and discussed ingress and egress from the parking lot which is narrow and difficult. He said a couple of times in May it was impossible for him to turn into the lot and he left and talked to the owner about it. He changed his lunch hour from 12:00 p.m. to 2:00 p.m., but felt the parking situation was not right

THOMAS JAJEH, Property Manager, Cardoza Properties, said the day care has no license or approval to park in the center. He has met with them and sent them a letter. Mr. Jajeh also recently installed stronger worded signs on the property. He stated patrons park at 960 Moraga Road often and will bring their children over to the day care tieing up parking. If they are patronizing the center, it is okay, but often they are using the lot at peak times which creates pressure.

Mayor Tatzin questioned whether the day care business was busy at noon. Mr. Jajeh said it is frequent but they have particular times when they are busy. He feels economic times have been hard for everyone; he would like to see all businesses at the center succeed, the parking lot is tight but functional, and he has not received any complaints over the last two months other than two occasions he spoke to Bob Brown about the topic of the waiver. He said he is not on-site everyday and they try and keep things controlled, but their situation is not different than what most similarly sized centers experience in the City. He applauded Gretchen Chevalier for making an effort to improve their business and said he wants to see them be successful, as well as other tenants.

Councilmember Anderson said he appreciates Mr. Jajeh's neural stance, but the Council must decide whether or not to continue to waive the regulations which were specifically put in place to create less conflict between uses. He questioned what ideas could help solve the problem. Mr. Jajeh said a few people have raised issues regarding employee parking and he felt if there was a way for employees to park elsewhere, it would help the situation. Another option was a valet type situation, but this creates its own problems. He questioned whether or not there was any other parking available in the City.

Mayor Tatzin questioned how seriously valet parking was looked at during the lunch hour. Mr. Jajeh said the idea has only been discussed but it would be up to a specific business to bring that forward. Mayor Tatzin felt where the City has seen it occur elsewhere, the organization that controls the spaces institutes the valet parking program and they work out costs in various ways. He acknowledged they may not choose to implement it, but he wondered whether any of the businesses would step up. Mr. Jajeh said if something was presented, he could talk to the owner about it. In the past it has come up and it can be cost-prohibitive for the businesses.

Mayor Tatzin felt that it would increase the value of the property. Mr. Jajeh said there were some items to consider--one was taking away existing space in the center to do it; secondly, a cost involved in applying for the variance with the City and; thirdly, having an agreement with another lot. Mayor Tatzin said when people park valet in their own lot they can put more cars in. It might also allow for more diligence on the part of those visiting the day care next door. He suggested reconfiguring the lot as to how many cars it would hold if a valet operation were run for the lot. Mr. Jajeh said other than Chevalier's talking about the variance; this has not come up as an item for discussion in the past.

Councilmember Federighi questioned how many day care parents park in the lot. Mr. Ahmed replied that even though the lot is full, parents will park behind the cars in order to run and get the kids from the school, or double-park, but otherwise they park in those spaces available.

GRETCHEN CHEVALIER noted the letters of support from clients, as well as photographs taken on different days and times of their service. As shown, there are ample parking spaces in the photographs. Until today, they have not received any complaints from tenants, a few neighboring tenants patron their restaurant which is nice to see, and because this was a temporary situation, they did not aggressively advertise until they saw what occurred this evening. Their average customers per day per lunch are about 15 total spread out over the 3 hour lunch service or 5 customers each hour. Some days they have 6; some days 20. They have offset parking by requiring their employees to park outside the lot or take public transportation. If the parking lot were impacted, it would not work for Chevalier Restaurant either. If they were to get approval, they know they do not need a huge booming lunch business. The revenue from the additional 15 guests per day is extremely helpful. They would hope to cap reservations at about 30 per day so they would not plan on more than 10 guests per hour for lunch, possibly adding only 5 cars to the lot. They have been well-received and if they get approval, they will continue to seek off-site parking which will allow them to continue to remain open for lunch through the calendar year.

Councilmember Federighi questioned when the photographs were taken, and Ms. Chevalier said their first lunch service was the 30th, and the pictures were taken between April 30th and the first week of June during the lunch service, 11:30 a.m. to 2:30 p.m.

Councilmember Federighi said she was troubled by the fact that the Council is hearing from Flipper's Burgers that when they purchased the business, they had parking. They understood that a restaurant at the corner could not be opened for lunch and that they are apparently having difficulties with their own customer base. She said she was not at the meeting when approval was given; many people came by and asked if they were open for lunch and she questioned if Ms. Chevalier would be willing to have signs posted that state "No Lunch-Time Restaurant Parking" and Ms. Chevalier agreed with this. Ms. Chevalier noted; however, that three speakers identified that they had always experienced parking problems, which she was not sure was indicative of Chevalier opening for lunch or more an existing problem. In preparation for the meeting, they had taken photographs and often times, the lot is empty, but all four businesses are open from 5:00 p.m. to 8:00 p.m., which is dinner service. The sewing company closes at approximately 6:00 p.m. and the dry cleaner is open beyond 5:00 p.m. Since she has been a tenant there since last July, they have not heard of any complaints or experienced any problems.

Councilmember Federighi said she has visited the restaurant for dinner and has been unable to find parking so there is parking competition.

Mayor Tatzin questioned how Ms. Chevalier would propose to enforce Councilmember Federighi's suggestion for signage and he questioned what progress has been made in finding a permanent parking solution. Ms. Chevalier said in addition to signage, she said a majority of diners make reservations on Open Table, they have the ability to state "no on-site parking" in their profile so new diners would know there is no on-site parking. The other way they receive reservations is by phone and employees can specify there is no on-site parking when taking reservations. For any other walk-in's, they would not be driving, and to date, much of their lunch business has been Chamber members and other business owners of Lafayette and she believed they could walk or find off-site parking in order to continue to patronize the restaurant.

Regarding the pursuit of on-going, more permanent parking, she indicated they took a break after the temporary waiver was approved and they plan to start the search again shortly.

Vice Mayor Andersson said Ms. Chevalier indicated employees doing prep work previously would park in the lot. He confirmed they do not park in the lot now, most wait staff travel in from San Francisco and take BART and one employee parks off-site and two carpool together. She said of the photographs presented, the majority of cars are employee cars for the other tenants.

Councilmember Anderson questioned if valet parking just for Chevalier Restaurant at lunchtime would be something she would be willing to entertain. Ms. Chevalier said most definitely and she noted that even before they approached parking off-sight, they approached the possibility of doing valet parking. They have discussed it briefly with the property management and Jay Lifson of the Chamber, and if this is needed, they would be open to it.

Councilmember Anderson voiced concern that there is an existing business who states they are suffering from the waiver of the parking regulations. The Off-Street Parking Ordinance was meant to give them some certainty there would be no competition for parking, and he was inclined to abandon the effort and respect the existing business and determine if the Chevaliers can come up with a creative answer to the parking problem. He asked that the Chevaliers look at valet parking given the high end nature of the restaurant, which he felt would be more successful as opposed to signage.

Vice Mayor Andersson said since before the experiment, there have been difficulties in the parking lot. It is not clear they have been exacerbated by this and he felt there was another creative solution which is to discourage or forbid parking by customers at all. If they would normally have employee cars in the lot which are taken away, it seems that there is an argument that there is really not additional parking as a result of Chevalier Restaurant opening for lunch. In addition, a valet situation could relieve pressure, but it might be worthwhile to give a little more time to try the valet parking or no parking rule or play out both scenarios. In the meantime, he sees three significant issues with the lot: (1) employee parking—business owners should look at their own self interests and require employees to find some alternative way not to occupy an on-site parking space; (2) the daycare—he questioned if anyone has talked to the day care about staggering pick up times; and (3) try to come up with other solutions as a group or have the property manager coordinate something over the next month or two to see if things can be minimized.

Councilmember Federighi suggested allowing the use to continue for a couple of more months on a trial period and see if discouraging parking with signage; "No Chevalier Restaurant Lunch Parking" and that the owner be willing to alert those that there is no on-site parking on Open Table and by phone reservations to see if this works. She also suggests asking Chevalier to seriously look into valet parking, as she is reluctant to impinge upon a vested interest of Flipper's Burgers and the other businesses.

Mayor Tatzin agreed with Vice Mayor Andersson's comments, suggested Mr. Jajeh work with all of the tenants as a property manager, he hoped for a program that provides a place for employees to park off-site, determine a maximized use of the existing lot and he agreed with the Chevalier's agreement to no-restaurant parking during the lunch hours. He would be willing to give this a try for a couple of months.

Mr. Cass added that extending the trial period for an additional two months, staff would recommend three months because of the summer months which will be different when Lafayette

Elementary School is back in session, and suggested extending it to September 30th. Regarding the recommendation for valet parking, staff is concerned with the viability of this solution being utilized for only one of the four tenants, but also the space associated with where the valet will be stationed and where the vehicles will actually be parked. Also of concern is that patrons may park on-site without using the valet.

An option that staff has indicated to business owners in the past, while not a popular solution, is that if a couple of vehicles park on-site, they could be towed, and the message will get out that those parking spaces are truly intended for patrons of the four businesses.

Mayor Tatzin confirmed with Mr. Cass that the parking demand would increase once school opens. He said if it is not solved by the end of August, it will not be any better when school opens. He suggested a two-month trial to have it work in the summer, but Mr. Cass said typically the Council has only one meeting during the month of August, and Mayor Tatzin suggested staff return at the first meeting in September. Councilmember Federighi agreed that this was her preference.

Mayor Tatzin agreed there were complications with every solution and he would encourage the property manager to work with tenants as to what will work for everyone. Perhaps the Chamber will also have ideas as to what other businesses and communities are doing.

Councilmember Anderson said he cannot support the proposal; this is a City ordinance put in place recognizing the complication of limited parking. This was done upfront and now the Council is toying with it and seeing a negative reaction. He was concerned they were missing the foresight that went into the ordinance that states that one restaurant can only operate in the evening because of problems.

Councilmember Federighi said in normal times, she would agree with Councilmember Anderson and would like to see if it would work by having signage. If there are restaurant parkers there and they get towed, there is nothing worse to send a strong message.

ACTION: It was M/S/C (Andersson/Federighi) to Adopt Resolution 2009-34, directed staff to amend the Lafayette Stimulus Package Agreement with Philippe Chevalier and Gretchen Chevalier, as follows: for staff to return with results at the September 14th City Council meeting, impose a no- lunchtime parking rule on Chevalier's Restaurant, for Chevalier's to standardize their on-line and telephone reservation process that no parking is allowed on-site during lunch hours, for Chevalier Restaurant to maintain a log about means by which patrons arrive at the restaurant, and to encourage the property manager to solve parking problems for all businesses. Vote 3-1-1 (Ayes: Tatzin, Andersson, Federighi; Noes: Anderson; Absent: Anduri).

Councilmember Federighi requested that any photographs returned at the September 14th meeting be dated and timed.

B. Christine Sinnette, Senior Planner
Consideration of request from Contra Costa Certified Farmers' Markets, Inc. to use Lafayette Plaza for a farmers' market pilot program
Recommendation: Discuss and direct staff.

Community Development Director Ann Merideth said the proposal involves using the Lafayette Plaza as a trial period for a farmers' market pilot program. Staff questioned whether the Plaza is

the correct place to hold a farmers' market on a trial basis, and if so, should the City be a sponsor that would entail working with and helping with insurance, street closure and clean up.

Mayor Tatzin questioned the City's cost if it were to be a sponsor. Ms. Merideth said the Plaza is used for Rock the Plaza and it would be minimal, as insurance costs are minimal.

Councilmember Federighi questioned the costs prior to making a decision, as it would have budget implications. Mayor Tatzin said assuming the trial were successful, the City would need to determine the long-term budget implication.

Councilmember Anderson questioned how large the event would be and whether the idea was to line the area behind the park from Golden Gate Way out to Moraga Road. Ms. Merideth said Janet Thomas could provide detailed information.

Vice Mayor Andersson said the idea of having the pilot program over 5 evenings. He said at the Environmental Task Force meeting, the idea would be for them to look for a more permanent place, if successful. Ms. Merideth said if successful in the Plaza, they would like to stay in it next year and issues could be worked out.

Public Comments:

JANET THOMAS, Environmental Task Force, said she has worked with the local foods group for years, there has been a lot of enthusiasm for a farmers' market which has been deferred due to resistance from markets in town, but the momentum has grown over the last year. Many people have said regardless of whether or not there are local markets, they would like to have a Lafayette, small scale, community market, and one that works for local vendors as well. She said other representatives present could answer questions on how a market can be run. The Environmental Task Force met last week, and all members who were present were enthusiastically supportive of the City sponsoring a trial market, we feel it is consistent with the City's environmental strategy, its mission statement, guiding principles, goals, and she specifically read Action 23. She said a trial is recommended in order to obtain important information that the community and City would want prior to deciding on a permanent market next year, which would be seasonal, May through October. Much of the cost would be incurred by the Farmers' Market Certified Association who would also cover the insurance. They are using the plaza as a trial because a committee, who has looked at many sites, feels it is most appropriate to be held on Thursday evenings. She discussed information obtained from the trial period would be number of attendees, overall satisfaction, number of returning market goers, how the market would impact community members' purchase of local, sustainably grown food, whether attending the market would decrease travel time, whether patrons receive information and an enhanced understanding of where and how the food is grown, what impact the market has on consumer shopping at local businesses and their perceptions, and what impact the market has on traffic and parking. She said they would like to include local producers, all flowers sold in Lafayette in stores, and she noted they invited business owners of the Chamber to see how this could work for the community.

Councilmember Anderson said he supports the farmers' market 100%. He noted that the Task Force is carrying forward the idea but he questioned whether some people will represent a proposal for the actual market. Ms. Thomas said the task force is supportive, but The Local Foods Group has been the body working on the market, which comprises of most of the task force members, Sustainable Lafayette members, and grass roots community members. There have been 20-30 people involved in this effort. Councilmember Anderson confirmed they would

manage the market and currently manage the Walnut Creek, Orinda, Pleasant Hill and Martinez markets.

Vice Mayor Andersson questioned when other local farmer's markets meet, and Ms. Thomas said most meet on Saturday and Sunday mornings.

Councilmember Federighi said those markets she has gone to have generally been produce related and she questioned how local vendors are worked into the mix. Ms. Thomas said local vendors would include those who may raise eggs, honey, and those who have surpluses in their own gardens.

Councilmember Federighi said a farmers' market is appealing to her, but she wondered if this involved street closures, how local merchants would respond. Ms. Thomas said this is why they are holding a meeting tomorrow night at 6PM in the City offices with Chamber members. They have already held two meetings with the Diablo Food owners, Chamber and the Park Hotel to discuss their willingness to set parameters which are agreeable to people in the community. Some ideas that came from this is the barber shop could open his doors longer, wine tasting in front of Vino's Café, and they would most likely limit the market goods to produce and flowers, but it would not involve crafts or clothes/jewelry. It would also be a small market and whatever parameters are set, they will abide by them.

SUSAN DAMMENFELSER said she joined the Local Foods Group because she was very excited about the Farmers' Market primarily due to having a community environment, which encourages people to stay in Lafayette on Thursday nights. She felt it could dove tail into the Thursday night Library Authors, music events at the Playhouse and it would encourage dining locally. She said they held a productive meeting with the Diablo Foods owners; they would not be a constant source of competition and she felt at some point they may want to consider rotating in crafts and artists. She said they would also keep the florists local with the opportunity to purchase in the atmosphere of a market and possibly also have cheese and wine tastings.

STEVE RICHARD said he was a co-founder of Sustainable Lafayette and submitted a letter supporting doing a trial farmers' market. The reason is primarily the tremendous interest in local foods over the last two years since starting, which he briefly described. He conveyed that there are hundreds of people in Lafayette in support of local foods, those growing food in their gardens, those signing up for community-sponsored agriculture, and many are also passionate of shopping local. He said there are still those who leave town and taking business elsewhere which hurts Lafayette. In summary, the trial is a good way to experiment, receive feedback and find the right formula that works for everyone's benefit.

JESSICA DEU said she forwarded a letter requesting the pilot program, they are Contra Costa Certified Farmers' Market, she introduced Keith Farley, Site Manager of the Walnut Creek Farmers' Market, said they have had success over their 20 year period, they choose to stay small, try to incorporate what the community would like to have. She put together a packet for the Council, said they want to customize the farmer's market for Lafayette and said most of their board members live in Lafayette; Jim McCuen and Bonnie Wakeman.

Councilmember Anderson said it would be helpful to understand the scale of the farmers' market and questioned the nexus for the market's success, given the location. He questioned where people would park, how many vendors, and questioned how one would know whether or not the idea is a good one or not. Ms. Deu said they have walked and taken down information about the Plaza, she agreed it is a small footprint, the farmers' would have to offload their vehicles for

everyone to fit, and challenges with parking as described earlier is a concern. They would like to have people walk, carpool and ride bikes to the farmers' market. They designate an area where people can buy their produce, leave it there, get their vehicle and have their produce loaded in their vehicle. They have a manager charged with logistics of parking, said over 400 people attend Rock the Park on Friday night and the City has had experience for conducting an event at the plaza, and they will want to talk with neighbors and organizers.

KEITH FARLEY said the footprint of the market would include the paved parking area in front of the shops and it would extend up to the left to Mt. Diablo on Golden Gate Way. They see a safety issue of closing Golden Gate Way, but Golden Gate Way would remain open back to First Street. There is parking available there, the library will not be impacted nor the restaurants or businesses. The only businesses impacted could be Vino's, the barber shop, the new Sprint store and the cleaners, and Squirrel's restaurant, but some will not be open during the market times.

Councilmember Anderson supported the idea, but believed it would be helpful to see a layout, and Mr. Farley agreed to provide an aerial map of what is proposed. Councilmember Anderson referred to cost of clean up, closing and reopening of streets, maintenance, and how this is handled, and Mr. Farley said they take care of those items, but only ask that the City provide the type 3 barricades, codes, and traffic signs and they can maintain and store those. They maintain the insurance, they will request a lease agreement so the property becomes theirs during operating times, and he believes the cost to the City will be negligible and comes mostly from the stall fees paid by farmers and vendors.

Councilmember Federighi questioned what the hours of operation would be and Mr. Farley said they are proposing the market be held 4:00 p.m. to 8:00 p.m.

Ms. Thomas added that they would provide a marketing plan for 2010.

Mayor Tatzin noted the meeting tomorrow with the Chamber, felt action may be premature and he suggested the item return at the next meeting, receive information on estimated costs, and Mr. Falk said if the Farmers' Market take care of street closures, set up and clean up and it is done in an acceptable way, he believed the cost to the City would be negligible.

Councilmember Anderson felt all businesses in the area need to be clear about what is closed in terms of street access, the expectation about the number of vendors, circulation, and that the information is conveyed early on in the process. Councilmember Federighi said Vino's is open and generally busy on Thursday nights which could be both beneficial and problematic. Vice Mayor Andersson said a meeting of the Chamber is typically followed with a meeting of affected businesses. He felt there may be some good synergy as a result, and noted that Ms. Thomas has worked extremely hard on this. He recommended getting in touch with her with any questions.

ACTION: It was M/S/C (Anderson/Andersson) to continue to July 13, 2009. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

Convene Redevelopment Agency

ACTION: It was M/S/C (Anderson/Andersson) to convene the Redevelopment Agency Meeting. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson, Noes: None; Absent: Anduri).

8. STAFF REPORTS

A. Mayor Don Tatzin

Library Café - Design, Cost to Outfit, Library Food Policy and Selection of Vendor
Recommendation: Discuss and direct staff.

Chair Tatzin said the staff report involves the Library Café food policy and selection of vendor, and he questioned whether the Agency concurred with the general direction of the proposed policy, recognizing it needs to be flushed out in more detail, whether the suggestion regarding the equipment that the Council provides in the Café is acceptable and some concept of the terms of the initial lease.

Agencymember Anderson said it was not clear to him in reading responses from the various libraries throughout the country whether they have a staffed café or whether they have food/vending machines. He has seen a situation at the Park District where you start out staffing the café, but find that it doesn't break even and substitute staff with vending machines, which works fine. Chair Tatzin felt there was a mix and this could occur with Lafayette's library.

Agencymember Federighi questioned what the flooring was in the Library. Chair Tatzin said flooring is carpet squares. On a bad spill, if you cannot clean it, it can be replaced with a new square. He encouraged Engineering staff to order extra carpet squares.

Vice Chair Andersson questioned whether the initial intent was that the build-out or development of the café was not part of the library construction. Chair Tatzin said it was not part of the base bid other than preparing the space and providing electrical and plumbing connections. But for a long time, there has been an expectation there would be a café with in the library and within this space.

Executive Director Falk said regarding the cost of the equipment, staff did not include it in the original base bid because they wanted to test the market to see if vendors would be willing to pay for this. Staff found there were no vendors who were willing to pay to fit the whole thing out given the risk of operating such a small space. Chair Tatzin felt there was also a goal to recoup some portion of costs over time with rents.

Agencymember Federighi questioned where information was located to base decisions on the following questions: 2. What equipment will the Council expect the vendor to provide; and 3. What are the terms of an initial lease. Chair Tatzin said in the staff report includes a current view of the layout and the expectation is that the City would provide all equipment except for things like an espresso machine, cash register, microwave, coffee grinder, and the City is providing the bulk of the equipment.

Agencymember Federighi said therefore the question is whether the vendor should provide such equipment. Chair Tatzin said conversely, the Council may not like a certain recommendation and suggest the vendor provide the under the counter refrigerators, the grab and go refrigerator. She also noted that the print was so small she could not read it, and Chair Tatzin apologized and noted there is an equipment schedule on the lower right hand corner of page SF-1, which he also agreed was small. She said she would love to have the vendor provide everything, and Chair Tatzin said they most likely would not; a thought is to structure the lease so that vendors provide an upfront, non-refundable fee which goes toward a portion of the equipment which is installed and owned by the City, and in addition to rent, which would help defray some upfront costs.

Mr. Falk added that the staff recommendation is that the City would provide everything that is permanent and affixed and the vendor would provide the accessories, like the toasters, microwaves, espresso machines, etc. that are not major appliances.

Agencymember Anderson voiced concern this will not work because of the café's size. In reading all of the different reactions from the other libraries, he thought high end vending machines could be put in with healthy snacks and espresso and he felt they would have a better chance of being successful and having it be a place for people to sit down, eat, drink, and to have someone staffing it he did not believe would work. He said one way to test it would be to find someone willing to invest $100,000 into the café, which will not happen, and before deciding, he suggested determining whether or not a vending situation would work or not. He suggested getting some vending supplier pricing.

Agencymember Federighi confirmed the City was not already locked into having the café staffed. Chair Tatzin said no, the City sent the drawing to the County, the City can withdraw on the application, the City has no contractual agreements, and this is why it is before the Council for discussion. He felt there was some work like a floor drain which would become prohibitively expensive later on if needed, and he felt it would make sense to do the drain regardless, as spills could occur. Agencymember Anderson felt the drain may not be needed or the vending machines could be configured some other way, and he felt more information was needed.

Agencymember Federighi questioned timing, and Chair Tatzin said if the Council proceeds with getting a café vendor on board, they would need to issue a RFP. If vending machines are done instead, he suggested giving staff direction to pursue permits for features which are needed as part of a vending machine operation and determine whether or not this is a viable option. He said someone also suggests a coffee cart which could be staffed at some point in time.

Agencymember Federighi questioned if anyone had experience with other cafes that are tiny and how viable they are. Agencymember Anderson said the Park District often has small concession stands, there is one at Temescal and Lake Anza with hot dogs, popcorn, but they end up being staffed typically by a non-profit that wants to give jobs to people who couldn't normally get work, they are not profitable, and they often close because of a lack of business. In many cases, they get converted to vending machines where someone simply stocks the machines which is less fuss, is easier, and you do not have to pay someone a wage to operate the stand.

Mr. Falk said the City has had interest expressed by Futures Explored to service the vending, and they provide staffing at the Livermore Library Café.

Chair Tatzin believed there was reluctance to proceed and suggested other alternatives be researched. Vice Chair Andersson referred to question 1 and questioned whether or not it could be answered tonight. Agencymember Federighi said it could be answered yes and still have vending machines.

Public Comments:

ANN BURNS said she came to the meeting tonight because she and her husband could not get into their driveway, noting that the City is working on her street and it is wonderful. She suggested that a cart be considered and also liked the idea of Futures Explored because they also have a catering service now.

STEVE RICHARD referred to the library's slogan, "Imagine a Place", said so much effort has gone into the project and realizes there is criticism about the cost, but he did not believe vending machines would give the community the experience promised. He has been asked to help with thoughts going into the café, said he met with representatives from the Library Foundation, and a couple of times they brought in a vendor who has a coffee cart at a local hospital to determine

costs. He agreed the space is very limited and encouraged the City to put in the plumbing now and not later. He felt nothing much more could be done with the space except bringing in food and serving it through a satellite kitchen. He believes the library will be a very busy place, it will be where kids come after school and get picked up, where friends will meet during the day and on weekends, and he felt the café should be done right. He recommended going back to the drawing board, determine what pencils out, and put together a package with a lease for a vendor who might be interested which would include paying back costs for some of the equipment the City might want to add to the package.

CATHY MERCHANT, Chair of the Library Foundation, said the project has been interesting to do research on, agreed that with Futures Explored an said a similar group started it at Livermore Labs and it didn't work. However, she does not know whether or not they had something like the Huckleberry Café which has worked for Futures Explored, so she felt it might be worth looking into as an option. She said vendors were not interested in doing a $100,000 build-out because the space is tiny and marginally profitable, even for those who were willing to break even. She noted that once the Foundation decided they did not want to manage the café, there were some local restaurants who voiced interest in it and research shows the need for an off-site preparation place to make it work. She completely understands Agencymember Anderson's comments about vending machines, but thinks it would be hard to accept that look in the building given the community's expectations. Regarding research, there are some groups around the country who have vending machines and most have food if they have areas with no carpeting. Hercules was originally intended to have a café which has never opened. They allowed people to bring food in from other sources and be able to eat in the non-carpeted areas, which is fairly busy. In Contra Costa County, all libraries only allow bottled water, so Lafayette would be cutting edge in terms of allowing food to come in. She noted there have been mixed feelings from the Library Foundation, differences of opinions about food being in there, and she believed what stopped vendors was the issue of the drain and additional health department requirements.

Chair Tatzin said at the present time, there are four interested vendors; however, a RFP has not been sent out because they were waiting on the results of this meeting. One option for the Council is to give staff direction to proceed with the main infrastructure improvements to the room so that capacity is there, and then issue an RFP, see what response is received, simultaneously investigate the vending machine option, bring results back in a combined way, and then make a decision as to which direction they want to go in before accepting any proposals.

Agencymember Federighi said she knows little about this business and is reluctant to talk about lease terms and expectations without more information. Ms. Merchant was not sure what the process would also be for a coffee cart to be involved.

Mr. Falk added that when the President of J.F. Kennedy University was on the tour, he noted that at their facility they have cafes. His sense was that for this to work the City will have to charge very little or no rent and at the proposed size, the City may be able to find a vendor who could thrive. Chair Tatzin said recognizing the small space and a different business model, Caffino makes this space look gigantic, and Councilmember Anderson believed they also have a different clientele.

Agencymember Federighi questioned what fixed equipment other than the drain would the City be looking at if a regular vendor operated it as opposed to a vending machine. Chair Tatzin said if the City were to put in a café, it would install the drain, sinks, cabinetry and under-the-counter refrigerators. This would be similar to a vending machine except that food is taken out and checked out with a cashier. He said they would not be allowed to have warming ovens. Mr. Falk

said the equipment schedule involves tables and chairs, a display case, a coffee grinder, espresso grinder, espresso machine, a waste container, hand sink, shelves, hot water boiler, coffee maker, a sandwich prep unit, freezer, mop sink, and a water heater. Chair Tatzin said there is an estimated total cost for the City's portion.

Chair Tatzin said he has been advised by staff that if some of the infrastructure items are not done, they are very expensive to do later. He suggested completing them done because it maximizes the building. He recommended putting out an RFP indicating that the Agency reserves the right to reject all bids, determine how the four interested vendors respond in terms of items listed in the staff report, and bring it back to the Agency/Council while at the same time, review an alternate configuration which could be a coffee cart that could be staffed or a series of vending machines that would not be staffed.

Agencymember Anderson suggested taking out the vending machines because he felt it was not in keeping with the Library. Chair Tatzin suggested thinking about how to configure the space in case no bids are received, as the City may wind up doing a vending machine. He encouraged a direction regarding the food policy.

Agencymember Federighi said she was reading through many of the comments and in many places, food was allowed but only certain kinds of food and in restricted areas, particularly computer rooms. In some cases, it was only in non-carpeted areas. She did not believe food belongs with computers and food should be limited in certain areas. Chair Tatzin agreed and he noted computers were located throughout the Library.

Mr. Falk said he visited the San Francisco Museum of Modern Art and visited their new rooftop garden; they allow food and drink in the rooftop garden but nowhere else in the museum. The library will have three outdoor spaces; the adult reading deck, the children's reading deck, and the Seaborg Garden. One option might be to say food and drink can be walked through or taken into those areas to get there, but no open food be allowed in the enclosed areas. Chair Tatzin said he was in favor of a more liberal policy and based upon libraries that allow food in places, they do not indicate it is a problem. In some cases, librarians spend less time patrolling the issue and felt the policy could also be tightened.

Agencymember Federighi said it could also be liberalized, as well and said she would support items on page 9. Chair Tatzin questioned whether food should be allowed in the teen center, and Agencymember Federighi said because there are no computers there, this is an area which might just allow snacks. Ms. Merideth said the expensive part of a computer is under a table, so any spills that would damage a computer would most likely not reach it under a table.

Vice Chair Andersson said he was in favor of a more liberal policy and said he was impressed from comments of other libraries who indicated food problems were not significant. He believes a sticker could be placed near computers that state no food allowed near computers and supported restriction of food in the technology center.

Agencymember Anderson noted that people check out books and invariably eat near them at home, and he would support having a fairly liberal policy and allow people to be able take food purchased there or brought in throughout most of the library without much concern. Vice Chair Andersson and Agencymember Federighi both believed that the concern was not for books but for carpeting and computers. Chair Tatzin thought that any area with archival documents should also be restricted, as well.

ACTION: Agencymembers provided direction to Chair Tatzin to keep restrict food from the technology center and areas where there are archival documents, and to build in critical infrastructure components.

Adjourn Redevelopment Agency

ACTION: It was M/S/C (Anderson/Andersson) to adjourn the Redevelopment Agency Meeting. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

B. Jennifer Russell, Parks, Trails & Recreation Director
$400,000 in Measure WW Funds for Manzanita Building Improvements
Recommendation: Allocate $400,000 in Measure WW funds to the Parks, Trails & Recreation 2009-10 Capital Improvement Program for the Manzanita Building Project.

City Manager Falk referred the Council to the staff report and said he was available for questions.

Mayor Tatzin said his preference had been for the item to be continued until July, and Councilmember Anderson agreed. Other Councilmembers supported continuance and Vice Mayor Andersson requested that an item also be added about the flow of funds regarding acquisition of Olympic Park because this was an unknown at this point.

ACTION: It was M/S/C (Andersson/Anderson) to continue to July 27, 2009 and for the acquisition of Olympic Park to be added to the discussion. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

9. PUBLIC HEARING

A. Mary Bruns, Senior Transportation Coordinator
Grant Funding for Senior Services - Title 49 U.S.C. § 53 10(a) to purchase a new van for the Lamorinda Spirit Van Program
Recommendation: Conduct public hearing and direct staff to return with a resolution certifying that no non-profit corporations or associations are readily available in the Lamorinda service

Mayor Tatzin opened the public hearing. There were no public speakers and the public hearing was closed.

ACTION: It was M/S/C (Federighi/Anderson) to direct staff to return with a resolution certifying that no non-profit corporations or associations are readily available in the Lamorinda service. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None: Absent: Anduri).

10. CONSENT CALENDAR

Mayor Tatzin requested removal of Item 10.D.

ACTION: It was M/S/C (Federighi/Andersson) to convene as the Redevelopment Agency and approve Consent Calendar items A, B and C. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

A. City Council Minutes
June 8, 2009
Recommendation: Approve.

B. **Resolution 2009-39 Adopting the Lafayette Open Government Statement 2009**
Recommendation: Adopt Resolution 2009-29.

C. **Adopting the 2009 Salary Survey**
Recommendation: Adopt the 2009 Salary Survey.

Convene Redevelopment Agency

Item Removed for Discussion:

D. **Second Loan Agreement, and First Amendment to Loan Agreement, between the Lafayette Redevelopment Agency and the Lafayette Library and Learning Center Foundation**
Recommendation: Approve Second Loan Agreement, and First Amendment to Loan Agreement, between the Lafayette Redevelopment Agency and the Lafayette Library and Learning Center Foundation.

Chair Tatzin said the Executive Committee of the Library Foundation met this morning. Because of the uncertainty regarding the State's theft of redevelopment funds, the Foundation is concerned about making a further loan because their principle may be at risk. He said they need more time which may require some changes to the agreement and to Exhibit A-1. He suggested the item be continued to the second meeting in July.

ACTION: It was M/S/C (Tatzin/Anderson) to continue to July 27, 2009. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

Adjourn Redevelopment Agency

ACTION: It was M/S/C (Anderson/Federighi) to adjourn the Redevelopment Agency. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

11. COUNCIL/COMMISSION REPORTS

A. **Councilmember report on activities and consideration of matters a councilmember wishes to initiate for placement on a future agenda.**

Mayor Tatzin referred to the conference call which involved 160 people, and said Mark DeSaulnier had previously summarized the two issues in the beginning of the meeting. He suggested the City assume that all gas tax money is gone. The second proposal is a three-year, $350 million take from the RDA. The legislature is trying to draft legislation to state that the move is legal because money will be directed to schools within RDA areas. League staff is convinced that the highway user tax taking is also unconstitutional, said cities are being asked to contact all legislators, and he has contacted Assemblymember Nancy Skinner. The League is preparing to file a lawsuit, there is some sense that some people in the State know what they are proposing is illegal, but that this is a step toward another outcome.

In terms of when the gas tax money would be held, if it can be passed with a 2/3 majority, it could become effective July 1st. If they go to a majority vote, they cannot start withholding it for 90 days, in which the League would move to a restraining order. He questioned the City Engineer as to impacts to current year budget projects which are dependent upon gas tax monies. Mr. Coe said

the City has received most of 2009 monies, except for an installment of about $100,000, but 2010 would be in jeopardy.

Mayor Tatzin reported that LAFCO is conducting municipal service reviews, they are about to start on City reviews, and he did not believe there were any issues for Lafayette. Mr. Falk said staff edited the report extensively and LAFCO has accepted all edits. Mayor Tatzin noted some cities have recommended changes to their spheres of influence, and there are ongoing hearings regarding fire with a push to consolidate many fire districts in Contra Costa County which have funding implications.

Vice Mayor Andersson said given that this will cost more money overall, he questioned what the push was, and Mayor Tatzin thought that in a couple of areas there are some opportunities for consolidation, as there are small districts that could benefit. For East County, it is improving the quality of service and firefighters are very interested in it.

Mr. Falk reported that he and the Mayor attended a going-away luncheon for Linda Peterson.

12. WRITTEN COMMUNICATIONS

A. E-mail dated June 8, 2009 from Kristin Becker requesting a proclamation recognizing July 5-12, 2009 as Lafayette Swim Week in honor of the forty-third annual Lafayette Swim Meet to be held at Acalanes High School on July 11-12th
Recommendation: Discuss and direct staff.

ACTION: It was M/S/C (Anderson/Federighi) to adopt a proclamation recognizing July 5-12, 2009 as Lafayette Swim Week in honor of the forty-third annual Lafayette Swim Meet to be held at Acalanes High School on July 11-12th. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

B. Letter from the League of California Cities requesting council designate one voting delegate and one alternate for the League's 2009 Annual Conference Business Meeting September 16-18 in San Jose.
Recommendation: Discuss and direct staff.

ACTION: It was the consensus of the council to designate Carol Federighi as Lafayette's voting delegate for the League's 2009 Annual Conference Business Meeting September 16-18 in San Jose.

13. CLOSED SESSION

Convene Redevelopment Agency

ACTION: It was M/S/C (Federighi/Anderson) to adjourn to Closed Session at 10:35 p.m. and convene the Redevelopment Agency. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

A. Conference with Legal Counsel - Anticipated Litigation
Significant exposure to Litigation (Gov. Code section 54956.9(b) (1 case)

Adjourn Redevelopment Agency

ACTION: It was M/S/C (Federighi/Anderson) to adjourn the Redevelopment Agency. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

B. **Conference with Legal Counsel - Existing Litigation (Gov. Code section 54956.9(a))**
Lamorinda Properties, LLC v. City of Lafayette
Case No. N09-0663

C. **Public Employee Performance Evaluation (Gov. Code section 54957)**
Title: City Manager

D. **Conference with Labor Negotiators (Gov. Code section 54957.6)**
Agency designated representatives: Don Tatzin, Mayor and Brandt Andersson, Vice Mayor
Unrepresented Employee: City Manager

14. ADJOURNMENT

The City Council adjourned the meeting at 10 p.m. to the next Regular City Council meeting on July 13, 2009.

APPROVED:

_____
Don Tatzin, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk